

Filed for intro on 02/02/95  
House Bill \_\_\_\_\_  
By \_\_\_\_\_

Senate No. SB0739  
By Cooper

AN ACT relative to TennCare and to amend Tennessee Code  
Annotated, Titles 56 and 71.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated Title 71, Chapter 5, Part 1, is amended by adding the following language as a new, appropriately designated section:

(a) Legislative Intent. In order to ensure the success of the TennCare demonstration project, and that sufficient numbers of physicians and other providers participate in the TennCare program, the General Assembly declares it to be the public policy of the State of Tennessee that TennCare shall enlist providers, not through coercive means or tying arrangements that condition participation in one network upon participation in another network, but by payments that are consistent with efficiency, economy, and quality care, and that are sufficient to enlist enough providers so that care and services are available under TennCare at least to the extent that such care and services are available to the general population in respective recipients' geographic areas. Any TennCare regulations or vendor or provider contracts that, in whole or in part, contravene this state and congressional policy are hereby declared to be against

public policy. The Bureau of TennCare shall also comply with, and follow, the federal Medicaid equal access requirement set forth at 42 U.S.C. §§1396a(a)(30)(A) and 42 C.F.R. §447.204.

(b) Managed care organizations shall not require providers to participate in their TennCare plans or TennCare provider networks as a condition of participating in any other health care plan, network, or health insurance program owned, operated, or administered by the managed care organization.

(c) For purposes of this section, a tying arrangement means, but is not limited to, any act by a managed care organization to coerce physicians or other providers into participating in the managed care organization's TennCare network by terminating, threatening to terminate, or failing to renew, any provider's contract, or refusing to accept a provider's application to participate in the managed care organization's non-TennCare or private insurance or administrative plan or network, due in whole or in part to that provider's nonparticipation or refusal to participate in that managed care organization's TennCare network.

(d) For purposes of this act, "managed care organization" means a preferred provider organization, or any other health care organization or licensed insurance company, hospital or medical service plan, health maintenance organization, an employer or employee organization, or a managed care contractor, that operates a managed care plan in TennCare, or which involves any arrangement whereby any person or entity regulated by Chapters 7, 19, 26, 27, 28, 29, or 32 of Title 56 undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services as part of the TennCare program, in addition to its other business in this state.

(e) Any managed care organization which violates this section shall be ineligible to participate in the TennCare program, or to issue or administer any type of health insurance in the state of Tennessee.

SECTION 2. Tennessee Code Annotated Section 71-5-118(c)(1) is amended by adding the phrase "concerning fraud or misrepresentation as defined under T.C.A. §39-14-133" after the phrase "this section" in the first sentence.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This Act shall take effect on becoming a law, the public welfare requiring it.

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